

## United States Senate

March 24, 2021

The Honorable Janet Yellen  
Secretary of the Treasury  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Yellen,

The American Rescue Plan (ARP) is historic legislation that provides unprecedented investments in Native communities. This urgent relief to Tribal governments will help them respond to, mitigate, and prevent the spread of the novel COVID-19 virus, as well as address continuing pandemic impacts. While there are many important resources directed to Tribes and Tribal programs in the ARP, I write to urge you to consider the following recommendations related to implementation of the Coronavirus State Fiscal Relief Fund (CSFRF) authorized by Title IX of the ARP.

The CSFRF provides \$20 billion for payments to Tribal governments. Once \$1 billion is divided equally among each of the Tribal governments, the ARP directs the Secretary to determine the amounts paid to each Tribal government from \$19 billion in vital relief. It also requires the Secretary to make payments to Tribal governments no later than 60 days of enactment.

As you implement the CSFRF, I ask that you consider the following recommendations:

### **Robust, Meaningful Tribal Consultation**

I request that the Department of Treasury engage in robust, meaningful, and frequent consultation with Tribal governments on the methodology for allocating Tribal CSFRF funding. As many Tribes continue to face broadband and internet connectivity challenges that predate the pandemic, I request that the Treasury exercise its consultation responsibilities as flexibly as possible, aligning with President Biden's January 26th, 2021 Memorandum for the Heads of Executive Departments and Agencies to conduct Tribal Consultation and Strengthen the Nation-to-Nation Relationships. I am pleased that your Department announced rapid consultations and expect that you strongly consider Tribal input as you embark on your work to implement the relief fund.

### **Fair and Equitable Funding**

It is imperative that the Department not only consult with Tribal governments on its allocation methodology for Title IX relief funds, but that it keep in mind the diversity of Tribal communities in devising such methodology and defer to Tribes when determining data sources to ensure any such methodology is equitable and fair.

By way of example, when Treasury relied on federal program population data instead of self-certified Tribal population and employee data when allocating Tribal governments' CARES Act relief funding, Pueblos and Tribes in New Mexico were particularly impacted. New Mexico Tribal communities, and similarly situated small Tribes across the country, were disadvantaged when Treasury used the Department of Housing and Urban Development (HUD) Indian Housing Block Grant (IHBG) program population values. The consequence of not using Tribes' certified population numbers resulted in an undercount for at least 17 New Mexico Tribes at an average of 30 percent of their populations. Accordingly, as you contemplate ARP funding allocation methodology, I urge that you consider the impacts of the prior Administration's misguided decision and, if the Department opts to use population as a factor in its allocation of the Tribal CSFRF after completing its scheduled consultations, strongly consider using the certified population numbers that our trusted Tribal partners provide.

In sum, as the Administration undertakes its work to implement the CSFRF, I respectfully request that these resources be delivered expeditiously to Tribal Nations and that the Department of Treasury deploy Tribal CSFRF allocations using a methodology built through meaningful consultation with Tribal governments that ensures equitable distribution among Tribes.

Over a year into the pandemic, Tribal governments continue to operate on the front lines of the pandemic. They are resilient in the face of overwhelming adversity brought on by the coronavirus, and we must work together to assist them in responding to and addressing their citizens' health, social, and economic well-being. I look forward to continuing our shared work to ensure the ARP gets more shots into arms and money into pockets, and that Tribal Nations and Native communities are a fundamental part of our national COVID-19 response and recovery.

Sincerely,



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Ben Ray Luján  
United States Senator